



26 August 2022

Ms Carmel Donnelly
Chair
Independent Pricing and Regulatory Tribunal
PO Box J35
Haymarket Post Shop 1240

Dear Ms Donnelly

Draft Water Regulatory Framework

Thank you for the opportunity to comment on the draft package of IPART's Draft Water Regulatory Framework.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

We have only responded to those questions in the draft package that align with issues customers raise with EWON, or with our organisation's operations as they relate to this regulatory review.

If you would like to discuss this matter further, please contact Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely

Janine Young
Ombudsman
Energy & Water Ombudsman NSW

IPART Delivering customer value: Draft Water Regulatory Framework May 2022

EWON supports IPART's draft framework that focuses on delivering better customer value, and ultimately a higher level of consumer protection.

IPART has outlined a fundamental shift in its regulatory framework that is aimed at furthering the long-term interests of customers, by promoting customer engagement and influence on the way businesses deliver services and the way that the services are regulated. The focus on customers, costs and credibility (the 3Cs) and the 12 supporting guiding principles will assist water businesses through increased customer engagement and driving culture change that genuinely benefits customers. This will, in return, increase rapport and trust with customers and provide valuable insights that will lead to better policy and customer focused initiatives.

Customer pillar and guiding principles

Customer Principle: Customer engagement

We support moving towards a more customer centric regulatory focus to inform price submissions. There is strong precedent for increased customer engagement and increased focus on delivering customer outcomes in reforms in Victoria under the Performance, Risk, Engagement, Management and Outcomes (PREMO) framework for water pricing, and similarly in the UK's energy and water sectors.

We acknowledge that IPART has deliberately been un-prescriptive in how this engagement should occur recognising that NSW water businesses are best placed to design a method that works for their customers. However, we consider that the principle for customer engagement should include words that encourage water providers to engage with all consumers within their distribution district that are impacted by their service delivery. This would include tenants and homeowners in situations like Residential (Land Lease) Communities.

IPART has previously identified the gap in the relationship between water providers and consumers that are not classed as a 'customer', such as tenants, and recommended that the NSW Government review this situation:

'We reiterate our recommendation to the NSW Government to consider a review of the water utility-tenant relationship including, policy implications, the costs and benefits of any changes, identification of legislative constraints and consideration of necessary protections for tenants.'

'We have previously recommended to the NSW Government that it review the relationship between water utilities and tenants in NSW including, in our price determination for Sydney Water in 2000 and in our final report to the Minister for the Hunter Water licence review in 2017. We reiterate this recommendation¹.'

EWON recommends that the Regulatory Framework specifically encourages water providers to engage with all consumers (direct customers and non-direct customers) to ensure all groups in the community have an opportunity to contribute and be heard.

¹ IPART, Review of the Sydney Water Corporation Operating Licence 2015-2020, Final Report, April 2019, p90

This would be consistent with the recent final report in the Hunter Water Operating Licence Review² which implemented changes to further extend protections to consumers within the customer contract, including Clause 15, Consultation, Information and Privacy. The changes in the licence go a long way to assuring all consumers are afforded the same protections, and a consistent change in the regulatory framework would ensure that all consumers are heard in the customer engagement process.

Customer principle: Choice of services

We support engaging with customers when developing tariffs and additional services. However, there is a risk that new services and tariffs may be developed that result in an overall reduction in consumer safeguards, an unintended and unexpected consequence.

An example of this can be drawn from the energy market in NSW. In 2015, Jemena Gas Networks introduced a new boundary meter tariff, which resulted in a substantial growth in residential gas embedded networks, including bulk hot water services. This innovation and the consequential development of new tariffs has resulted in customers being billed for hot water on a cents per litre basis by energy retailers rather than for the energy used to heat the water. These consumers do not receive the consumer protections that they would receive if they were charged for the energy used to heat their hot water. Further, in many cases it has resulted in an increase in costs for customers.

EWON would encourage IPART to consider how it can ensure consumer safeguards are protected, while balancing innovation within the water industry.

Community engagement

We support that all future pricing proposals will need to include a customer engagement strategy that sets out how customers are consulted on business plans, and further, that more advanced proposals must show that customers had significant influence in the proposal.

EWON is in a unique position that it can provide support to its members via participation in their community engagement activities. We already lead a significant community outreach program that engages with consumers and stakeholders across NSW and water providers are already active participants in that program. We also have direct contact with a considerable number of consumers through our dispute resolution work.

EWON is able to use its unique position to encourage customer participation with this new framework, as well as provide insightful feedback to water members, that we gain through our dispute resolution work, customer engagement and systemic issue work.

As we have with energy networks, we would welcome the opportunity to work with water members as they work through the process of redeveloping their consumer engagement strategies and via networking with stakeholders

Customer consultation groups

We acknowledge that IPART's draft decision is not to develop customer consultation/advisory groups on the basis that it would expect businesses to have already thoroughly engaged with customer advocacy groups before bringing an issue to a Regulatory Advisory Panel.

² IPART, Hunter Water Operating Licence Review Final Report, May 2022

EWON has gained extensive experience and provided value through Ombudsman / Senior Officer participation, as an observer, on Electricity Network's Customer Reference Groups that contribute to the Australian Energy Regulator's regulatory process. The knowledge and insight that customer advocacy groups provide via these forums is often the foundation of highlighting concerns or issues that may arise from new regulation when applied in practice. These forums provide a voice for consumer groups that may not be uncovered through businesses direct customer engagement.

EWON has also been able to utilise these forums to gather insightful stakeholder information that assists us in our systemic issue management or submissions that we make to regulatory reviews. EWON recommends that IPART consider suggesting that water providers develop Customer Reference Groups that consist of industry stakeholders and consumer representatives as this will contribute to better customer outcomes and promote collaboration and engagement.

7.2 Regulators Advisory Panel to consider regulation and compliance issues

EWON supports the development of a Regulators Advisory Panel to consider regulation and compliance issues. EWON would welcome the opportunity to participate as a guest at these meetings to provide data and insights emerging from water complaints and systemic issues.

Review period

EWON supports an in depth review of the new framework after the first round of pricing reviews. This will ensure that the framework remains fit for purpose as well as identifying and addressing gaps any emerging consumer protections.

Enquiries

Enquiries about this submission should be directed to Janine Young, Ombudsman on (02) 8218 5256 or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.